

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Case No. 16-00115-01-CR-W-HFS
)	
BRANDON C. MOODY)	
)	
Defendant.)	

ORDER

Pending is a motion to suppress (Doc. 42) and Judge Maughmer's report and recommendation (Doc. 53) favoring a denial of the motion. Having reviewed the briefing and evidence, I hereby ADOPT the report and recommendation and DENY the motion to suppress.

Brief additional comment may be appropriate. I am somewhat less convinced by the towing and inventory, on the theory that the defendant's car, parked in the grass in front of his mother's home, constituted an apparent nuisance to the owner justifying towing, than I am by the theory that the car was abandoned by the defendant in flight, and the search without a warrant was reasonable. If the car had been left in a more public site, such as the parking lot of a restaurant, the flight would clearly be treated as abandonment. If that is "abandonment" the events

here seem similar. Fleeing the car suddenly parked in the driveway, or on the front lawn, or out in front on the street seem legally similar, and would be comparable to the defendant's tossing something while fleeing, wherever that might occur outside his house. I accept the curtilage discussion in the report, as well as the discussion regarding the drug-sniffing dog.

~~/S/ Howard F. Sachs~~
HOWARD F. SACHS
UNITED STATES DISTRICT JUDGE

May 26 , 2017

Kansas City, Missouri